

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	No. 4:10 CR 415 HEA
v.	)	
	)	
JOVICA PETROVIC,	)	
a.k.a. JOSHUA PETROVIC,	)	
	)	
Defendant.	)	

**GOVERNMENT'S PROPOSED JURY INSTRUCTIONS**

COMES NOW the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and D. John Sauer and Diana R. Collins, Assistant United States Attorneys for said District, and submits the attached jury instructions.

Respectfully submitted,

RICHARD G. CALLAHAN  
United States Attorney

/s/ D. John Sauer  
D. JOHN SAUER, #2594570  
Assistant United States Attorney  
111 South 10th Street, 20th Floor  
St. Louis, MO 63102  
(314) 539-2200

INSTRUCTION NO. \_\_\_\_

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of trial are not repeated here.

The instructions I am about to give you now, as well as those I gave you earlier, are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, *all* instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. \_\_\_\_

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. \_\_\_\_

I have mentioned the word “evidence.” The “evidence” in this case consists of the testimony of witnesses and the documents and other things received as exhibits and the facts that have been stipulated – this is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence.
2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.
4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

INSTRUCTION NO. \_\_\_\_

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

You should judge the testimony of the defendant in the same manner as you judge the testimony of any other witness.

INSTRUCTION NO. \_\_\_\_

The indictment in this case charges that the defendant with seven different crimes. Under Counts One, Two, Three, and Four, the indictment charges that the defendant committed the crime of using facilities of interstate commerce to commit interstate stalking.

Under Counts Five and Seven, the indictment charges that the defendant committed the crime of knowingly transmitting an extortionate communication in interstate commerce.

Under Count Six, the indictment charges that the defendant committed the crime of traveling in interstate commerce to commit interstate stalking, using a dangerous weapon.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, the defendant is presumed to be innocent. Thus the defendant, even though charged, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the Government proves, beyond a reasonable doubt, each essential element of the crimes charged.

Keep in mind that each count charges a separate crime. You must consider each count separately, and return a separate verdict for each count.

There is no burden on the defendant to prove that he or she is innocent. Accordingly, the fact that the defendant did not testify may not be considered by you in any way, or even discussed, in arriving at your verdict.

INSTRUCTION NO. \_\_\_\_

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. \_\_\_\_\_

The indictment charges that the offense alleged in the indictment was committed “on or about” a certain date.

Although it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged in the indictment, it is not necessary for the government to prove that the offense was committed precisely on the date charged.



INSTRUCTION NO. \_\_\_\_

Omitting the formal caption, the indictment in this case reads as follows:

**COUNTS ONE, TWO, THREE, and FOUR**  
**Interstate Stalking and Harassment in Violation of Protection Orders**

The Grand Jury charges that:

Beginning during or around December 2009, and continuing through on or around September 15, 2010, in the Eastern District of Missouri, and elsewhere,

**JOVICA PETROVIC, a.k.a. JOSHUA PETROVIC,**

the Defendant herein, with the intent to harass, to place under surveillance with the intent to harass and intimidate, and to cause substantial emotional distress to a person in another State, namely M.P., did, in violation of protection orders issued in Case No. 10SL-DR00853 in the Circuit Court of St. Louis County, Missouri, use the mail, interactive computer services, and facilities of interstate commerce to engage in a course of conduct that caused substantial emotional distress to M.P. and placed M.P. in reasonable fear of death and serious bodily injury; and, in engaging in said course of conduct, the Defendant caused the interstate shipment of the following items:

**Count One:** A Federal Express package with tracking number 8720 2387 6800, shipped from Fort Myers, Florida, to 10 Lake View Drive, Lake St. Louis, Missouri, on or about February 19, 2010.

**Count Two:** A homemade postcard sent by United States mail from Fort Myers, Florida, to 1266 Andes Boulevard, Creve Coeur, Missouri, on or about May 25, 2010.

**Count Three:** A homemade postcard sent by United States mail from Fort Myers, Florida, to 10 Lake View Drive, Lake St. Louis, Missouri, on or about May 28, 2010.

**Count Four:** A homemade postcard sent by United States mail from Fort Myers, Florida, to 400 Crossroads Business Park Court, Wentzville, Missouri, on or about June 2, 2010.

All in violation of Title 18, United States Code, Section 2261A(2)(A), and punishable under Title 18, United States Code, Section 2261(b)(5) and (6).

**COUNT FIVE**  
**Interstate Extortionate Threat**

The Grand Jury charges that:

On or about December 28, 2009, in the Eastern District of Missouri, and elsewhere,

**JOVICA PETROVIC, a.k.a. JOSHUA PETROVIC,**

the Defendant herein, with the intent to extort a thing of value from another person, namely M.P., did knowingly transmit in interstate commerce a communication containing a threat to injure the reputation of that person.

In violation of Title 18, United States Code, Section 875(d).

**COUNT SIX**  
**Interstate Stalking With a Dangerous Weapon**

The Grand Jury further charges that:

On or about January 14, 2010, in the Eastern District of Missouri, and elsewhere,

**JOVICA PETROVIC, a.k.a. JOSHUA PETROVIC,**

the Defendant herein, having traveled in interstate commerce with the intent to harass, and to place under surveillance with the intent to harass and intimidate, M.P., did, in the course and as a result of such travel, place M.P. in reasonable fear of death and serious bodily injury, and did use a dangerous weapon, namely an automobile, during said offense.

In violation of Title 18, United States Code, Section 2261A(1), and punishable under Title 18, United States Code, Section 2261(b)(3).

**COUNT SEVEN**  
**Interstate Extortionate Threat**

The Grand Jury charges that:

On or about June 20, 2010, in the Eastern District of Missouri, and elsewhere,

**JOVICA PETROVIC, a.k.a. JOSHUA PETROVIC,**

the Defendant herein, with the intent to extort a thing of value from another person, namely M.P., did knowingly transmit in interstate commerce a communication containing a threat to injure the reputation of that person.

In violation of Title 18, United States Code, Section 875(d).

INSTRUCTION NO. \_\_\_\_

The indictment is based upon federal statutes which are federal law.

Section 2261A(2)(A) of Title 18, provides:

“Whoever, with the intent to ... harass, or to place under surveillance with intent to ... harass or intimidate, or cause substantial emotional distress to a person in another State ..., uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of death ... or serious bodily injury ... shall be punished as provided in section 2261(b) of this title.”

Section 875(d) of Title 18 provides:

“Whoever, with the intent to extort from any person ..., any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the ... reputation of the addressee or another person ....”

Section 2261A(1) of Title 18 provides:

“Whoever travels in interstate or foreign commerce ... with the intent to ... harass, or place under surveillance with the intent to ... harass or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of ... death ... or serious bodily injury ..., or causes substantial emotional distress to that person ... shall be punished as provided in section 2261(b) of this title.”

INSTRUCTION NO. \_\_\_\_

The crime of using facilities of interstate commerce to commit interstate stalking, as charged in Counts One through Four of the indictment, has three elements, which are:

*One*, the defendant intentionally used the mail, any interactive computer service, or any facility of interstate or foreign commerce;

*Two*, the defendant engaged in a course of conduct with the intent to harass, to place under surveillance with the intent to harass or intimidate, or to cause substantial distress to a person in another State; and

*Three*, the defendant's conduct actually caused the victim to experience substantial emotional distress, or placed her in reasonable fear of the death or serious bodily injury.

For each of Counts One, Two, Three, and Four, if you find these three elements unanimously and beyond a reasonable doubt, then you must find the defendant guilty of the crime charged; otherwise, you must find the defendant not guilty of this crime.

INSTRUCTION NO. \_\_\_\_

The term “course of conduct” means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.

INSTRUCTION NO. \_\_\_\_

The crime of interstate transmission of an extortionate communication, as charged in Counts Five and Seven of the indictment, has three elements, which are:

*One*, the defendant transmitted a communication in interstate or foreign commerce;

*Two*, the communication contained a threat to injure the reputation of another person;

*Three*, the defendant intended to communicate such a threat; and

*Four*, the defendant did so with the intent to wrongfully extort from another person any money or other thing of value.

For each of Counts Five and Seven, if you find these four elements unanimously and beyond a reasonable doubt, then you must find the defendant guilty of the crime charged; otherwise, you must find the defendant not guilty of this crime.

INSTRUCTION NO. \_\_\_\_

The phrase “thing of value” means anything of valuable consideration, and it includes intangible objectives as well as tangible items such as money and property. A sexual relationship can be a “thing of value.”



INSTRUCTION NO. \_\_\_\_

The crime of interstate stalking with a dangerous weapon, as charged in Count Six of the indictment, has four elements, which are:

*One,* the defendant traveled in interstate or foreign commerce;

*Two,* the defendant did so with the intent to harass, or to place under surveillance with the intent to harass or intimidate, another person;

*Three,* in the course of, or as a result of, such travel, the defendant placed that person in reasonable fear of death or serious bodily injury, or caused substantial emotional distress to that person; and

*Four,* the defendant used a dangerous weapon during the offense.

If you find these four elements unanimously and beyond a reasonable doubt, then you must find the defendant guilty of the crime of charged in Count Six; otherwise, you must find the defendant not guilty of this crime.

INSTRUCTION NO. \_\_\_\_

The term “dangerous weapon” means any object used in a manner likely to endanger life or inflict serious bodily harm. An object need not be inherently dangerous, or a “weapon” by definition, such as a gun or a knife, to be used as a dangerous weapon. An automobile may be a dangerous weapon if it used in a manner likely to endanger life or inflict serious bodily harm.

INSTRUCTION NO. \_\_\_\_

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict - whether guilty or not guilty - must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

*Third*, if the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the Government has proved its case beyond a reasonable doubt.

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or bailiff, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone - including me - how your votes stand numerically.

*Fifth*, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. The verdict whether guilty or not guilty must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be - that is entirely for you to decide.

*Finally*, the verdict form is simply the written notice of the decision that you reach in this case. The form reads: **(read form)**. You will take this form to the jury room, and when each of you has agreed on the verdict, your foreperson will fill in the form, sign and date it, and advise the marshal or bailiff that you are ready to return to the courtroom.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
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Plaintiff,	)	
	)	
v.	)	No. 4:10 CR 415 HEA
	)	
JOVICA PETROVIC,	)	
a.k.a. JOSHUA PETROVIC,	)	
	)	
Defendant.	)	

**VERDICT**

**COUNT ONE**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count One of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_ day of November, 2011.

**COUNT TWO**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Two of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_ day of November, 2011.

**COUNT THREE**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Three of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_\_ day of November, 2011.

**COUNT FOUR**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Four of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_\_ day of November, 2011.

**COUNT FIVE**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Five of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_\_ day of November, 2011.

**COUNT SIX**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Six of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_\_ day of November, 2011.

**COUNT SEVEN**

We, the jury in the above entitled cause, unanimously find the defendant **JOVICA PETROVIC**  
\_\_\_\_\_ as charged in Count Seven of the Indictment.  
(not guilty or guilty)

\_\_\_\_\_  
FOREPERSON

Dated this \_\_\_\_\_ day of November, 2011.